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OFFICE OF PETITIONS

In re Application of
Michael T. Kelly
Application No. 09/043,813
Filed: September 29, 1998
Attorney Docket No. 850103.40301

ON PETITION.

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 20, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 21, 2001.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$460 extension of time submitted with the petition on November 23, 2001 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1600 for further processing.


Irvin Dingle

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy